

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

No. 5:20-HC-2085-M

UNITED STATES OF AMERICA,     )  
  )  
                    Petitioner,     )  
  )  
            v.                         )  
  )  
DUANE LETROY BERRY,            )  
Reg. No. 62250-019,            )  
  )  
                    Respondent.    )

JOINT PROPOSED PRETRIAL  
ORDER

I. STIPULATIONS:

A. Legal Stipulations

1. All parties are properly before the Court.
2. The Court has jurisdiction of the parties and the subject matter.
3. All parties have been correctly designated.
4. There is no question as to misjoinder or non-joinder of the parties.
5. This action arises under 18 U.S.C. § 4246 this Court has original exclusive jurisdiction.
6. Venue of this matter is proper.
7. Copies of all official documents, documents kept in the ordinary course of business, and all production exchanged during discovery in this matter are genuine and authentic.

## B. Factual Stipulations

1. On 21 May 2020, Respondent was certified as a mentally ill and dangerous person pursuant to 18 U.S.C. § 4246(a).
2. At the time of his certification, Respondent was undergoing competency restoration ordered by the United States District Court for the Eastern District of Michigan, where he was charged with False Information and Hoaxes in violation of 18 U.S.C. § 1038(a).
3. Respondent suffers from delusional disorder, mixed type, a qualifying mental disease or defect.
4. Dr. Lloyd is an expert in the field of forensic psychology; and Dr. Hans Stelmach is an expert in the field of forensic psychiatry.

## II. CONTENTIONS:

### A. PETITIONER

#### 1. Issues:

- (a) Whether Respondent, as a result of his mental disease or defect, poses a substantial risk of bodily injury to another person or serious damage to property of another if released.

### B. RESPONDENT

#### 1. Issues:

- (a) That Respondent does not meet criteria for civil commitment pursuant to 18 U.S.C. § 4246.

### III. EXHIBITS

#### A. PETITIONER:

<b>No.</b>	<b>Description</b>	<b>Docket Entry or Bates Stamp# GOV_Berry</b>	<b>Objections</b>
1	Certificate of Mental Disease or Defect and Dangerousness, filed on 21 May 2020	D.E. 1	
2	CV of Dr. Kristina Lloyd	107-1	
3	Forensic Evaluation Report of Kathryn Schrantz, M.A., and Dr. Kristina Lloyd, dated 21 April 2020	D.E. 2	
4	Forensic Evaluation Report of Dr. Kristina Lloyd, dated 20 January 2023	D.E. 107	

Petitioner reserves the right to designate and use any exhibits identified by Respondent in this action.

#### B. RESPONDENT

<b>No.</b>	<b>Description</b>	<b>Docket Entry or Bates Stamp #s</b>	<b>Objection</b>
1	Forensic Report of Dr. Hans Stelmach	D.E. 108	

Respondent reserves the right to designate and use any exhibits identified by Petitioner in this action.

### IV. DESIGNATION OF PLEADINGS AND DISCOVERY MATERIALS

#### A. PETITIONER

Petitioner designates the entire pleadings, responses, transcript of any depositions, and any discovery material exchanged between the parties for purposes of cross-examination. Petitioner reserves the right to use, as necessary, all portions of these documents, as appropriate, pursuant to the Federal Rules of Evidence and

the Local Rules.

**B. RESPONDENT**

Respondent designates the entire pleadings, responses, transcript of any depositions, and any discovery material exchanged between the parties for purposes of cross-examination. Respondent reserves the right to use, all portions of these documents, as appropriate, pursuant to the Federal Rules of Evidence and the Local Rules.

**V. WITNESSES**

**A. PETITIONER**

<b>Name</b>	<b>Address</b>	<b>Proposed Testimony</b>
Dr. Kristina Lloyd	FMC Butner Butner, NC 27509	Expert Testimony regarding whether Respondent suffers from a mental disease or defect, and whether, as a result of that mental disease or defect, Respondent's release would pose a substantial risk of bodily injury or serious damage to property of another

Petitioner reserves the right to call any witness listed by Respondent in this Pretrial Order. Petitioner reserves the right to call rebuttal witnesses, as appropriate.

B. RESPONDENT

Name	Address	Proposed Testimony
Dr. Hans Stelmach	New Hanover Regional Medical Center 2131 S. 17 <sup>th</sup> Street Wilmington, NC 28402	Expert Testimony regarding whether Respondent suffers from a mental disease or defect, and whether, as a result of that mental disease or defect, Respondent's release would not pose a substantial risk of bodily injury or serious damage to the property of another.

Respondent reserves the right to call any witness listed by Petitioner in this Pretrial Order. Respondent reserves the right to call rebuttal witnesses, as appropriate.

The Parties reserve the ability to amend the Pretrial Order up to two weeks in advance of the hearing.

TRIAL TIME ESTIMATE: 1 day (approximately 2–3 hours).

Respectfully submitted this 30th day of March 2023.

FOR PETITIONER:

MICHAEL F. EASLEY, JR.  
United States Attorney

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Genna D. Petre  
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FOR RESPONDENT:

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NC State Bar No. 26116  
LR 57.1 Counsel Appointed

SO ORDERED this \_\_\_\_ day of March 2023.

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RICHARD E. MYERS, II  
Chief U.S. District Judge

CERTIFICATE OF SERVICE

This is to certify that I have, this 30th day of March 2023, served a copy of the foregoing upon Respondent's counsel of record by filing the same via the District Court's CM/ECF Document Filing System.

By: /s/ Genna D. Petre  
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